



Manistee County Board of Commissioners

Manistee County Courthouse • 415 Third Street • Manistee, Michigan 49660

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Thomas Kaminski
(231) 398-3500

PUBLIC SAFETY COMMITTEE

Friday, September 2, 2011
8:30 A.M.

Manistee County Courthouse & Government Center
Board of Commissioners Meeting Room

AGENDA

- 1) Continued discussion regarding the potential implementation of a county-wide off-road vehicle ordinance. This topic was discussed by the Committee at its meeting on April 1, 2011; May 6, 2011; June 3, 2011; and July 12, 2011. The County Board of Commissioners also held a Public Hearing on this issue on Tuesday, August 23, 2011. The County Prosecuting Attorney has reviewed the previously written draft ordinance, which is attached under APPENDIX A.
- 2) Sheriff Items.
 - A) Sex Offenders Registration Act amendments. (APPENDIX B)
 - B) Discussion regarding correspondence dated August 12, 2011 from Colleen Mysliwiec regarding a driving law violation issued by a Sheriff Deputy.
- 3) Emergency Management Coordinator Items.
 - A) Hazard Mitigation Assistance Grant program letter of support. (APPENDIX C)
 - B) Paul Forest of the United States Forest Service will be in attendance to address the Committee and make a PowerPoint presentation regarding the Community Wildlife Protection Plan.
- 4) Jail Administrator Items.
- 5) Ford Stone, Prosecuting Attorney, will appear before the Committee to present statistical information regarding the criminal caseload in Manistee County.
- 6) Russell Pomeroy, County Treasurer, will appear before the Committee to make a recommendation regarding the dog license fee structure in Manistee County. Sheriff Kowalkowski will also present proposed increases to other Animal Control fees (APPENDIX D).
- 7) Bruce Schimke, Maintenance Supervisor, will appear before the Committee to present an update on the jail expansion construction project.
- 8) Other Items from Committee Members.
- 9) Adjournment.

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(APPENDIX A -1)
4/09

STATE OF MICHIGAN
COUNTY OF MANISTEE
ORV ORDINANCE

ORDINANCE NO: _____

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in Manistee County, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2006 PA 240, MCL 324.61131.

THE COUNTY OF MANISTEE ORDAINS:

Sec. 1: As used in this ordinance, the following definitions shall apply:

- a) "County" means the County of Manistee.
- b) "Driver license" means an operator's or chauffeur's license or permit issued to an individual by the secretary of state under chapter III of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- c) "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.
- d) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- e) "ORV" means a motor driven off road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV or vehicle includes, but is not limited to, a multitrack or multiwheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind.

"ORV" or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.
- f) "Road" means a county primary road or county local road as described in section 5 of 1951 PA 51, MCL 247.666.
- g) "Road Commission" means the Board of County Road Commissioners for the County of Manistee.
- h) "Safety certificate" means a certificate issued pursuant to 1984 PA 451 as amended, MCL 324.61129, or a comparable ORV safety certificate issued under the authority of

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another state or a province of Canada.

i) "Township" means an individual township within the County of Marquette.

j) "Township Board" means a board of trustees of any township within the County of Marquette.

k) "Visual supervision" means the direct observation of the operator with the unaided or normally corrected eyes, where the observer is able to come to the immediate aid of the operator.

Sec. 2: An ORV may be operated on the far right of the maintained portion of a road within the county.

Sec. 3: A township board of a township in the county may adopt an ordinance to close any roads within the boundaries of the township to the operation of ORVs permitted by the county. Beginning July 17, 2008, the township board of a township in the county may adopt an ordinance authorizing the operation of ORVs "on the maintained portion of 1 or more roads located within the township," pursuant to MCL 324.61131 (3).

Sec. 4: The county road commission may close no more than 30% of the total linear miles of roads in the county to protect the environment or if the operation of ORVs pose a particular and demonstrable threat to public safety. The road commission may not close a municipal street to ORVs opened under Section 5 of this ordinance.

Sec. 5: An ORV may not be operated on the road surface, roadway, shoulder or right-of-way of any state or federal highway in the county.

Sec. 6: Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a road or street in the county:

- a) at a speed of no more than 25 miles per hour or a lower posted ORV speed limit.
- b) by a person not less than 12 years of age.
- c) with the flow of traffic.
- d) in a manner which does not interfere with traffic on the road or street.
- e) traveling single file except when overtaking and passing another ORV.
- f) ~~when visibility is not substantially reduced due to weather conditions unless displaying a lighted headlight and lighted taillight.~~
- g) 1/2 hour before sunrise until 1/2 after sunset unless displaying a lighted headlight and lighted taillight.
- h) while displaying a lighted headlight and lighted taillight at all hours beginning January 1, 2010.
- i) while the operator and each passenger is wearing a crash helmet and protective eyewear approved by the United States department of transportation unless the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened seat belt.
- j) with a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.
- k) while the ORV is equipped with a spark arrester type United States forest service approved muffler in good working order and in constant operation.
- l) pursuant to noise emission standards defined by law.

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Sec. 7: A child less than 16 years of age shall not operate an ORV on a road in the county unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession a Michigan issued ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

Sec. 8: Unless a person possesses a valid drivers license, a person shall not operate an ORV on a road or street in the county if the ORV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels.

Sec. 9: Any person who violated this ordinance is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00

Sec. 10: A court may order a person who causes damage to the environment, a road or other property as a result of the operation of an ORV to pay full restitution for that damage above and beyond the penalties paid for civil fines.

Sec. 11: The County Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated as the ORV Fund. The County Board of Commissioners shall appropriate revenue in the ORV Fund as follows:

a) Fifty percent the County Road Commission for repairing damage to roads and the environment that may have been caused by ORVs, and for posting sign indicating ORV speed limits, or indicating whether roads are open or closed to the operation of ORVs.

b) Fifty percent to the County Sheriff for ORV enforcement and training.

Sec. 12: This ordinance becomes effective: _____

This Ordinance is adopted by action of the Manistee County Board of Commissioners this _____ day of _____ 20____.

Commissioners voting "AYE": _____

Commissioners voting "NAY": _____

Commissioners Absent: _____

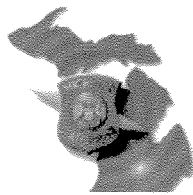
Allen O'Shea, Chairman
Manistee County Board of Commissioners

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Certification

I, Marilyn Kilber, Clerk of the County of Manistee, do hereby certify that this is a true and correct copy of the Ordinance duly adopted by the Manistee County Board of Commissioners on the _____ day of _____, 20____.

Marilyn Kilber, Manistee County Clerk



(APPENDIX B-1)

MICHIGAN STATE POLICE LEGAL UPDATE

No. 88

August 31, 2011

This update is published by the Michigan State Police, Office of the Director, Legal Resource and Education Unit. Questions and comments may be directed to MSPLegal@michigan.gov. Past editions can be found at www.michigan.gov/msp-legal.

CRIMINAL LAW AND PROCEDURE MANUAL

The 2010 edition of *Michigan Criminal Law and Procedure: A Manual for Michigan Police Officers* is available for purchase.

The manual is published by Kendall Hunt Publishing Co. Copies may be ordered by calling Kendall Hunt Customer Service at (800) 228-0810, or through their online catalog (search by title or ISBN: 978-0-7575-8710-8).

STATUTES

Sex Offenders Registration Act Amendments

Public Acts 17 and 18 of 2011 amended the Sex Offenders Registration Act (SORA), MCL 28.721 to 28.736, bringing Michigan into compliance with the federal Sex Offenders Registration and Notification Act.

The Tier System

The amendments to the SORA require each offender to be placed into a tier classification. The Michigan State Police Sex Offender Registry and Enforcement Unit is responsible for determining an offender's tier classification based on the offense for which the offender was convicted of and certain prior convictions. The tier classification determines the length of time the offender is required to be registered (MCL 28.725) and the number of times the offender is required to verify each year (MCL 28.725a).

Tier I offenders are required to register for 15 years and must verify their address annually, within the first fifteen days of January.

Tier II offenders are required to register for 25 years and must verify their address twice

a year, within the first fifteen days of January and July.

Tier III offenders are required to register for life and must verify their address quarterly, within the first fifteen days of January, April, July, and October.

The Reporting Requirements

MCL 28.725 requires offenders who are residents of Michigan to report in person and notify law enforcement **immediately** (defined as three business days) **after** the offender does any of the following:

- Changes or vacates his or her residence or domicile.
- Changes place of employment or employment is discontinued.
- Enrolls as a student with an institution of higher education, changes campuses, or enrollment is discontinued.
- Changes his or her name.
- Intends to temporarily reside at any place other than his or her residence for more than seven days.
- Establishes any e-mail address, instant message address, or any other designations used in electronic communications.
- Purchases or begins to regularly operate any vehicle and when ownership or operation is discontinued.

In addition, MCL 28.725 requires offenders who are residents of Michigan to report in person and notify law enforcement three days **prior** to changing their residence or domicile to another state. Offenders who are residents of Michigan must report in person and notify law enforcement 21 days **prior** to changing their residence or domicile to another country or travelling to another country for more than 7 days.

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Homeless Offenders

The amendments revised the definition of "residence" in MCL 28.722 to address the issue of registering and verifying homeless offenders. The definition of "residence" now includes the statement, "If a person is homeless or otherwise lacks a fixed or temporary residence, residence means the village, city, or township where the person spends a majority of his or her time." Homeless offenders are required to comply with the SORA, including address verification and the reporting requirements listed above.

Employee Definition Includes Volunteers

MCL 28.722 now defines "employee" as "an individual who is self-employed or works for any other entity as a full-time or part-time employee, contractual provider, or volunteer, regardless of whether he or she is financially compensated." Accordingly, offenders who are unpaid volunteers are considered employees for purposes of the SORA and they are required to report this employment information to law enforcement, including changes to the place the offender volunteers and if the offender discontinues volunteering for the entity.

Non-Residents

MCL 28.723 provides that a nonresident who is convicted in Michigan of a listed offense on or after July 1, 2011, is required to register as an offender in Michigan. Nonresident offenders are not required to comply with the ongoing reporting requirements as long as the offender remains a nonresident and is not otherwise required to report under the SORA. A nonresident offender is also required to have a photograph taken as required by MCL 28.725a.

MCL 28.725(2) requires nonresident offenders who work in Michigan to report in person and notify law enforcement of a change in place of employment or if employment is discontinued.

MCL 28.724a requires nonresident offenders who enroll with an institution of

higher education in Michigan to report in person and notify law enforcement within 10 days after they enroll as students, change campuses, or enrollment is discontinued.

Penalties

MCL 28.729 and MCL 28.735 list the penalties for violation of the SORA. The amendments changed the penalties listed in MCL 28.729 for violation of the reporting requirements. Now, any offender who willfully violates the SORA is guilty of a felony, except:

- Failure to verify address as required by MCL 28.725a(3) is punishable as a 2-year misdemeanor.
- Failure to sign registration forms as required by MCL 28.727(4) is punishable as a 93-day misdemeanor.
- Refusal or failure to pay registration fee as required by MCL 28.725a(6) or MCL 28.727(1) within 90 days of the date the individual registers is punishable as a 90-day misdemeanor.
- Failure to maintain a valid identification as required by MCL 28.725a(7) is punishable as a 2-year misdemeanor.
- Residing in a student safety zone in violation of MCL 28.735 is punishable as a 1-year misdemeanor for first offense and a 2-year felony for a second or subsequent offense.
- Working or loitering within a student safety zone in violation of MCL 28.734 is punishable as a 1-year misdemeanor for first offense and a 2-year felony for a second or subsequent offense.

Public Act 17 of 2011
Public Act 18 of 2011

SUBSCRIPTIONS

In order to receive the Update via e-mail, click [here](#) or go to www.michigan.gov/msp-legal and click on "subscribe to legal updates."

This update is provided for informational purposes only. Officers should contact their local prosecutor for an interpretation before applying the information contained in this update.

(APPENDIX C)

September ____, 2011

FEMA Hazard Mitigation Assistance for Planning
c/o Joel Peppler
Emergency Management and Homeland Security Division
Department of State Police
4000 Collins Road
Lansing MI 48910

Dear Mr. Peppler:

On behalf of the (County), I am writing to support the grant application for the FEMA 2012 Hazard Mitigation Assistance Grant Program for Planning by ~~Leelanau~~ County. The (County) is requesting the opportunity to update the Natural Hazards Mitigation Plan by working with the consultant, the Northwest Michigan Council of Governments.

This grant program will develop a (County) hazard mitigation work group with diverse stakeholders who will participate in the gathering of new data, the revision of maps, work with planning and zoning, hold public input sessions, revise goals, objectives and actions, and assist with the development of the plan update.

Thank you very much for your time and consideration of the (County's) support of the ~~Leelanau~~ County 2012 Hazard Mitigation Assistance for Planning grant application.

Sincerely,

(Emergency Manager)

(APPENDIX D)

PROPOSED MANISTEE COUNTY ANIMAL CONTROL FEES INCREASES

Below is our current fees for services at Manistee County Animal Control.

Impound Fee \$20.00

Daily Board Fee \$5.00

Euthanasia Fee \$20.00

Disposal Fee \$18.00

These fees have not been adjusted in several years. Below is a proposed fee list. *10 yrs.*

Impound Fee \$30.00 1st offense \$50.00 2nd offense \$100.00 3rd off.

Daily Board Fee \$10.00 per day

Euthanasia Fee \$50.00 per animal

Disposal Fee \$20.00 per animal

Submitted

Deputy J.R. Nelson
Manistee County Animal Control